United Nations ST/IC/2002/25

Secretariat

29 April 2002

# Information circular

To: Members of the staff

From: The Under-Secretary-General for Management

Subject: **Practice of the Secretary-General in disciplinary matters, 2000-2002**

1. The purpose of the present circular is to inform staff members of the practice of the Secretary-General in exercising his authority in disciplinary matters under article X of the United Nations Staff Regulations. This information is provided at the request of the Accountability Panel, which was established by the Secretary-General by ST/SGB/2000/14 of 23 October 2000 to ensure that the Secretariat addresses the findings of its oversight review bodies from a systemic perspective, and to reinforce existing accountability mechanisms. The information is provided to raise awareness and enhance transparency regarding accountability in disciplinary matters among managers and staff. The period covered is January 2000 through February 2002.

## I. Overview of administrative machinery in disciplinary matters

### A. Rules governing the conduct of staff members[1]

2. Article 101, paragraph 3, of the Charter of the United Nations states that the "paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and *integrity*" (emphasis added).

3. Article I of the Staff Regulations and chapter I of the Staff Rules, both entitled "Duties, obligations and privileges", set out the basic values expected of international civil servants because of their status, as well as particular

[1] For a full overview of relevant provisions, see Secretary-General's bulletin ST/SGB/1998/19, "Status, Basic Rights and Duties of United Nations Staff Members", issued at the request of the General Assembly. Provisions relating to the status, rights and obligations of staff members, and to disciplinary matters, can also be found in the electronic Human Resources Handbook (http://intranet.un.org/hr_handbook) under "Status, basic rights and duties" and "Disciplinary".

02-35991 (E) 060502

manifestations of such basic values. Particular reference is made to staff regulation 1.2 and staff rule 101.2 for specific instances of expected or prohibited conduct.

## B. Misconduct

4. Article X of the Staff Regulations, entitled "Disciplinary measures", provides in regulation 10.2 that "the Secretary-General may impose disciplinary measures on staff members whose conduct is unsatisfactory". Staff rule 110.1, on misconduct, provides that "failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant may amount to unsatisfactory conduct ... leading to the institution of disciplinary proceedings and the imposition of disciplinary measures for misconduct". Similarly, staff rule 101.2 (a) provides that "disciplinary procedures ... may be instituted against a staff member who fails to comply with his or her obligations and the standards of conduct set out in the Charter of the United Nations, the Staff Regulations and Rules, the Financial Regulations and Rules, and all administrative issuances". Within these parameters, the Secretary-General has broad discretion in determining what constitutes misconduct and in imposing disciplinary measures. Administrative instruction ST/AI/371, on revised disciplinary measures and procedures,[2] provides further examples of failure by staff members to comply with obligations and to observe the expected standards of conduct.

## C. Due process

5. Where the head of office or responsible officer (e.g., head of administration in a mission) believes, on the basis of a preliminary investigation, that disciplinary procedures may be warranted, he or she will refer the matter to the Assistant Secretary-General for Human Resources Management for a decision on whether to pursue the matter as a disciplinary case. Preliminary investigations may be undertaken by the head of office or his/her designees, or by the Office of Internal Oversight Services, at its own initiative or at the request of the head of office. If the Assistant Secretary-General for Human Resources Management decides to pursue the matter, the first step is to notify the staff member in writing of the allegations as well as of his or her right to seek the assistance of counsel. The staff member is given a reasonable opportunity to respond to the allegations. In the light of the comments provided by the staff member, it is decided whether to close the case, to refer it to a Joint Disciplinary Committee for advice or to summarily dismiss the staff member.

6. While the Secretary-General has broad discretionary authority in deciding upon an appropriate measure in each case, no staff member can be subjected to disciplinary measures until the matter has been referred to a Joint Disciplinary Committee for advice as to what measures, if any, are appropriate. Such referral to a Joint Disciplinary Committee may be waived when the staff member concerned and the Secretary-General agree on a disciplinary measure and the proceedings would therefore serve no valid purpose. However, prior referral to a Joint Disciplinary

[2] See the electronic Human Resources Handbook referred to in footnote 1 above. Also relevant is administrative instruction ST/AI/379, on procedures for dealing with sexual harassment.

Committee is not required when the seriousness of the case warrants summary dismissal. Staff members who have been summarily dismissed may, at their initiative, seek a review of their case by a Joint Disciplinary Committee. All staff members subjected to disciplinary measures ultimately have recourse to the United Nations Administrative Tribunal.[3]

## D. Disciplinary measures

7. Staff rule 110.3 provides that disciplinary measures can take one or more of the following forms (i.e., more than one measure can be imposed in each case):

- Written censure by the Secretary-General;
- Loss of one or more steps in grade;
- Deferment, for a specified period, of eligibility for within-grade increment;
- Suspension without pay;
- Fine;
- Demotion;
- Separation from service, with or without notice or compensation in lieu thereof;
- Summary dismissal.

8. In determining the appropriate measure, every case is decided on its own merits, taking into account the particulars of the case, including aggravating and extenuating circumstances.

## E. Other measures

9. Reprimands, written or oral, by a supervisory official are not considered disciplinary measures. Like warnings or letters of caution, they are managerial, not disciplinary measures. However, they are also important measures to uphold standards of proper conduct and to promote accountability. Where inappropriate behaviour impacts on performance, the issue is addressed in the context of performance management. This may include training, counselling, withholding of salary increments, non-renewal of contract or termination of appointment.

# II. Summary of practice in disciplinary cases for the period January 2000 through February 2002

10. For each case that led to the imposition of one or more disciplinary measures, a summary is provided below, indicating the nature of the misconduct and the

[3] Numerous judgements of the United Nations Administrative Tribunal relate to disciplinary measures and show the practice of the Secretary-General for those cases brought before the Tribunal. Digests of these can be found in the online "Digest of Cases and Jurisprudence" (at http://157.150.196.9/unat/unat_home_service.htm, or by following the links under "Reference material" on the Headquarters Intranet home page).

disciplinary measure(s) imposed by the Secretary-General. The function or other particulars of the staff member are provided only when these played a role as aggravating circumstances in determining the measures to be taken (e.g., a travel assistant accepting gifts from a United Nations vendor). Conduct issues that were dealt with by means other than disciplinary measures are not listed here.

11. Not every case brought to the attention of the Secretary-General results in disciplinary or other measures being taken. When a review by the Office of Human Resources Management reveals that there is not sufficient evidence to pursue a matter as a disciplinary case, or when a staff member provides a satisfactory explanation in response to allegations, the case is closed and the staff member considered cleared of the allegations. Cases may also be closed when a staff member retires or is otherwise separated from the Organization before disciplinary proceedings are concluded, as the Secretary-General does not have the authority to impose disciplinary measures on former staff members. In these cases a record is made as to the status of the case and placed in the official status file.

**1. Theft and misappropriation**

(a) A staff member misappropriated the credit card of a visitor to the library and fraudulently used it to make purchases (2002).[4]

*Disposition: summary dismissal.*

(b) A staff member stole a credit card and cash from a staff member, and a credit card from another staff member, and was arrested by the local authorities for grand larceny (2001).

*Disposition: summary dismissal.*

**2. Fraud and misrepresentation**

(a) A staff member concluded a lease agreement with the spouse and submitted fraudulent receipts to claim a higher rental subsidy (2002).

*Disposition: summary dismissal.*

(b) A staff member solicited and received kickbacks from two contractors for payment of their contract fees and defrauded the Organization by submitting an inflated invoice for payment by the United Nations (2001).

*Disposition: summary dismissal.*

(c) A staff member filed tax return forms with national authorities that differed from the copies the staff member provided to the United Nations, thereby improperly benefiting from overreimbursement by the United Nations. The staff member refused to cooperate in the ensuing investigation and to supply information that he had a duty to provide (2001).

*Disposition: summary dismissal.*

[4] References to years indicate when the case was disposed of, i.e., when the decision to impose a disciplinary measure was taken.

**(d) A staff member working in a human resources office forged documents, including the test results of an applicant, and abused her authority to have an unqualified applicant appointed to the United Nations (2000).**

***Disposition: summary dismissal.***

**(e) Through a fraudulent scheme, a staff member illegally obtained money from local money changers. This scheme involved stealing blank cheques from other staff members and forging United Nations identification cards, a copy of a colleague's passport and a number of cheques (2000).**

***Disposition: summary dismissal.***

**(f) A security officer devised and carried out a pattern of fraud, involving the use of bad cheques to repay substantial loans. He failed to meet his financial obligations and was adjudged a judgement debtor under local law (2000).**

***Disposition: summary dismissal.***

**(g) A staff member repeatedly misrepresented information on education grant claims and made false certifications relating to those claims in respect of his children (2001).**

***Disposition: separation from service without notice and without compensation.***

**(h) A staff member failed to notify the Organization of an education allowance overpayment upon becoming aware that he had mistakenly claimed more tuition than he had actually paid (2001).**

***Disposition: letter of censure.***

**(i) A staff member misrepresented facts regarding his dependent children in connection with dependency allowance claims. This was mitigated by the fact that, had he supplied the correct information, he would still have been entitled to the allowance as claimed (2001).**

***Disposition, after waiver of referral to Joint Disciplinary Committee: letter of censure.***

**(j) In support of a claim for dependency benefits, a staff member knowingly provided a false birth certificate purporting that a child was the staff member's natural-born child. The fact that the staff member intended to adopt and take care of the child, and had relied on incorrect information from local authorities on adoption matters, was considered to be a mitigating factor (2000).**

***Disposition, after waiver of referral to Joint Disciplinary Committee: letter of censure.***

**(k) False invoices were submitted by a staff member to claim reimbursement of taxi fares for late-night transportation. Had the staff member in fact taken a taxi the staff member would have been entitled to the amounts as claimed (2002).**

***Disposition, after waiver of referral to Joint Disciplinary Committee: a fine of $2,000 (several times the amount claimed) and a letter of censure.***

(l) A travel assistant accepted a recreational trip offered by a United Nations vendor. He also falsely certified an inflated invoice for payment by the United Nations, which was mitigated by the fact that he had acted under instructions of his supervisor[5] and that he had not been properly supervised (2000).

*Disposition: written censure, a fine in the amount of $5,000 and, as a managerial measure, removal from functions involving financial responsibility.*

3. **Physical assault**

A staff member reported having been repeatedly beaten by her domestic partner, also a staff member. While she subsequently denied her initial statement and retracted the complaint, there was sufficient reason to believe that he had physically assaulted her (2001).

*Disposition: written censure and deferment, for one year, of eligibility for within-grade increment.*

4. **Harassment and sexual harassment**

A staff member sexually harassed a locally recruited colleague by repeatedly raising sexual issues in conversation and touching her, both against her will (2001).

*Disposition: separation without notice and without compensation.*

5. **Other**

(a) Two staff members acted, to varying degrees, as intermediaries in an illegal lottery operation (2001).

*Disposition: written censure for one staff member; loss of one step in grade and a written censure for the other.*

(b) A staff member violated established mission procedures for the movement of personnel in the mission area (among other things, by failing to obtain prior authorization) as well as procedures for the use of United Nations vehicles for non-duty activities (2001).

*Disposition: written censure and deferment, for two years, of eligibility for within-grade increment.*

(c) A staff member manipulated the bar codes of equipment that had already been written off in an attempt to reconcile the inventory to account for missing items of electronic equipment. In an attempt to cover up this activity, the staff member improperly disposed of the missing equipment at the side of a road (2001).

*Disposition, after waiver of referral to Joint Disciplinary Committee: written censure and a fine in the amount of one month's salary.*

---

[5] The staff member's supervisor had entered into a conspiracy with local travel agents to defraud the Organization. This case was investigated by the Office of Internal Oversight Services and was referred to host country authorities in 1999. The supervisor was tried and convicted, and is serving a prison sentence.

(d) A staff member failed to meet his financial obligations by not paying his child's tuition fees on time, even though an education grant — to which he was entitled — had been paid to him (2002).

*Disposition, after waiver of referral to Joint Disciplinary Committee: a fine of $1,000.*

(e) A supervisor requested one of his subordinates, the custodian of the petty cash fund, to advance him a certain amount of money from that account. Even though the supervisor claimed that he had not purposely exerted any pressure, it was considered that he had abused his authority, as his subordinate did not feel free to refuse the request in view of the supervisory relationship (2001).

*Disposition, after waiver of referral to Joint Disciplinary Committee: written censure.*

(f) While apparently under the influence of alcohol, a staff member drove a vehicle in a manner that endangered others. After failing to stop at the request of United Nations Military Police, the staff member lost control of the vehicle (2000).

*Disposition: written censure and demotion by one grade.*

(g) A staff member was driving a vehicle in an unsafe manner while intoxicated, thereby violating local laws (2000).

*Disposition: written censure and deferment, for a period of 12 months, of eligibility for within-grade increment.*